

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

In re	§	
	§	
ADVANCE TRANSPORTATION	§	Case No. 21-30906-HCM-11
SERVICES INCORPORATED,	§	
Debtor.	§	

EMERGENCY MOTION TO USE CASH COLLATERAL

TO THE HONORABLE H. CHRISTOPHER MOTT, UNITED STATES BANKRUPTCY JUDGE:

Now the comes the Debtor-in-Possession ADVANCE TRANSPORTATION SERVICES INCORPORATED (hereinafter “ATSI”) in these Subchapter V of Chapter 11 proceedings, and through its counsel undersigned files this Emergency Motion to Use Cash Collateral, and would show:

1.

Petition date in this case is November 30, 2021. The Debtor on petition date owned cash equivalents consisting of approximately \$60,000.00 in accounts receivable. The Debtor is in the transportation business, so it does not have other cash equivalents such as inventory.

2.

The earliest perfected security interest of record against ATSI is by the INTERNAL REVENUE SERVICE (“IRS”), as indicated by a lien search obtained from the UCC Section of the Texas Secretary of State’s Office, which is hereto attached as Exhibit “1.” The IRS’s lien, however, has been satisfied by seizure of a large account receivable. The next, and apparently the only other lien on file, is held by E ADVANCE SERVICES, of 142 East 42d Street, Ste. 2112, New York, NY 10168 (hereinafter “E ADVANCE”). E ADVANCE is owed approximately \$25,000 by the Debtor.

3.

ATSI proposes the following terms of adequate protection to enable ATSI to use the accounts receivable described above:

- a) ATSI will maintain an average accounts receivable balance on hand at least equal to the balance owed to E ADVANCE.
- b) E ADVANCE shall have an interim replacement first priority lien on the Debtor's accounts receivable, up to the extent of its claim.
- c) ATSI will make adequate protection payments to E ADVANCE, sufficient to amortize its claim secured by accounts receivable, in level payments over 24 months, together with interest at a rate of 4% per annum. Payments of \$1,085.62 shall be due on the fifth day of January 2022 and of each month thereafter, until the debt is satisfied or supplanted by a subsequent order of this Court. If any payment is not made on time, E ADVANCE at its option may send a fifteen-day notice of default in writing to Debtor's counsel, and if the late payment is not cured on time, permission to use cash collateral shall cease.
- d) ATSI will regularly file Monthly Operating Reports in this case so that E ADVANCE can monitor the Debtor's incoming revenue and outgoing expenses.
- e) ATSI is to use E ADVANCE's collateral only in the ordinary course of business and within the limits specified in a proposed final budget which the Debtor is to append to its proposed final cash collateral order. The budget is to be subject to a variation of 15% upon each budget category, or up to 15% over all the budgeting categories.
- f) An Interim Order is to issue, notifying all parties in interest in this case of the foregoing interim measures of adequate protection, with an opportunity to be heard, at a date and time to be set by the Court.
- g) A hearing upon final terms for cash collateral use is to follow the Interim hearing, after all parties in interest have been notified of the interim terms for cash collateral use, and afforded an opportunity to contest the interim terms.

WHEREFORE, PREMISES CONSIDERED, ATSI prays that the foregoing terms for use of cash collateral be approved as the Interim Order of this Court on this subject, with following notice to all parties in interest and an opportunity to be heard, before an order for final terms for cash collateral use would be approved.

Respectfully submitted this 30th day of November, 2021



E.P. BUD KIRK
Texas State Bar No. 11508650
600 Sunland Park Drive
Building Four, Ste. 400
El Paso, TX 79912
(915) 584-3773
(915) 581-3452 facsimile
budkirk@aol.com

Attorney for the Debtor-in-Possession

CERTIFICATE OF SERVICE

I do hereby certify that on the 30th day of November, 2021, I did cause a copy of the foregoing Emergency Motion to Use Cash Collateral to be emailed to U.S. Trustee, P.O. Box 1539, San Antonio, TX 78205-1539; to Brad W. Odell, Subchapter V Trustee, 1500 Broadway, Ste. 700, Lubbock, TX 79401; to Advance Transportation Services Incorporated, 12308 Red Sun Dr., El Paso, TX 79938; and to E Advance Services, 142 East 42d Street, Ste. 2112, New York, NY 10168.

/s/ 
E.P. BUD KIRK

4981-MC-112921

EXHIBIT “1”

TEXAS SECRETARY of STATE
JOHN B. SCOTT

Debtor Name Search

This debtor name search was performed on 11/29/2021 11:16 AM with the following search parameters:
DEBTOR NAME: ADVANCE TRANSPORTATION SERVICES
CITY: [Not Specified]

<u>Order</u>	<u>View</u>	<u>Filing Number</u>	<u>Filing Type</u>	<u>Filing Date</u>	<u>Pages</u>	<u>Lapse Date</u>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	21-0017140107	Notice of Federal Lien	04/22/2021 05:00 PM	1	10/07/2030
Debtor		ADVANCE TRANSPORTATION SERVICES INCORPORATED		12308 RED SUN DR EL PASO, TX, 79938-7738		
Secured Party		INTERNAL REVENUE SERVICE		P O BOX 145595 MC 8420G CINCINNATI, OH, 45250-5595		

<u>Order</u>	<u>View</u>	<u>Filing Number</u>	<u>Filing Type</u>	<u>Filing Date</u>	<u>Pages</u>	<u>Lapse Date</u>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	21-0035448219	Financing Statement	08/16/2021 04:35 PM	3	08/17/2026
Debtor		ATS I, INC.		12308 RED SUN EL PASO, TX, 79938		
Debtor		ADVANCE TRANSPORTATION SERVICES INCORPORATED		12308 RED SUN DR EL PASO, TX, 79938		
Debtor		STARLINE ELP, INC.		12308 RED SUN DR EL PASO, TX, 79938		
Debtor		ABRAHAM JAMIEL WARDY		12308 RED SUN DR EL PASO, TX, 79938		
Secured Party		E ADVANCE SERVICES		122 EAST 42ND STREET SUITE 2112 NEW YORK, NY, 10168		

Select All Filings: ☐


Order Selected Filings

Order Certificate

New Search

Instructions:

- Press 'New Search' if you wish to perform another web inquiry.
- Press 'Previous' or 'Next' to scroll through the results of this inquiry.
- Enter the page number and click 'GO' button to view the desired page.
- Press 'Order Search Certificate' if you wish to order a search certificate with the parameters entered for this web inquiry.
- If you wish to order only selected filings for this debtor, check by the filings and press 'Order Selected Filings'.
- Checked filings will be retained from page to page as you scroll through the results of this inquiry.
- If an order for a search certificate or selected filings is placed against this web inquiry, the web inquiry fee will be waived.
- Check 'Select All Filings' and press 'Order Selected Filings' if you wish to order copies of all filings and full filing history for the results of this web inquiry.
- To view a particular filing document, click on the image under 'View' for the desired document.

Form 668 (Y)(c) (Rev. February 2004)	17489 Department of the Treasury - Internal Revenue Service Notice of Federal Tax Lien				
Area: SMALL BUSINESS/SELF EMPLOYED AREA #5 Lien Unit Phone: (800) 913-6050	Serial Number 429450721		For Optional Use by Recording Office <div style="text-align: center;">  </div>		
<p>As provided by section 6321, 6322, and 6323 of the Internal Revenue Code, we are giving a notice that taxes (including interest and penalties) have been assessed against the following named taxpayer. We have made a demand for payment of this liability, but it remains unpaid. Therefore, there is a lien in favor of the United States on all property and rights property belonging to this taxpayer for the amount of these taxes, additional penalties, interest, and costs that may accrue.</p>					
Name of Taxpayer: ADVANCE TRANSPORTATION SERVICES INCORPORATED a Corporation					
Residence: 12308 RED SUN DR EL PASO, TX 79938-7738					
<div style="border: 1px solid black; padding: 5px;"> IMPORTANT RELEASE INFORMATION: For each assessment listed below unless notice of the lien is refilled by the date given in column (e), this notice shall on the day following such date, operate as a certificate of release as defined in IRC 6325(a). </div>					
Kind of Tax (a)	Tax Period Ending (b)	Identifying Number (c)	Date of Assessment (d)	Last Day for Refiling (e)	Unpaid Balance of Assessment (f)
941	03/31/2020	XX-XXX8613	09/07/2020	10/07/2030	47578.25
Place of Filing <div style="text-align: center;"> Secretary of State Austin, TX 78711 </div>					Total \$ 47578.25

This notice was prepared and signed at NASHVILLE, TN, on this,

the 14th day of April, 2021.

Signature  for LATRES S. STEWART	Title REVENUE OFFICER (915) 834-6526 25-08-1612
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(NOTE: Certificate of officer authorized by law to take acknowledgment is not essential to the validity of Notice of Federal Tax Lien
 Rev. Rul. 71-466, 1971 - 2 C.B. 409)

UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS

A. NAME & PHONE OF CONTACT AT FILER (optional)

B. E-MAIL CONTACT AT FILER (optional)

C. SEND ACKNOWLEDGMENT TO: (Name and Address)

First Corporate Solutions
914 S Street
Sacramento, CA 95811
USA

FILING NUMBER: 21-0035448219

FILING DATE: 08/16/2021 04:35 PM

DOCUMENT NUMBER: 1072278290001

FILED: Texas Secretary of State

IMAGE GENERATED ELECTRONICALLY FOR XML FILING
THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S NAME - Provide only one Debtor name (1a or 1b) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name); if any part of the Individual Debtor's name will not fit in line 1b, leave all of item 1 blank, check here ☐ and provide the Individual Debtor information in item 10 of the Financing Statement Addendum (Form UCC1Ad)

1a. ORGANIZATION'S NAME

ATS I, INC.

OR

1b. INDIVIDUAL'S SURNAME

FIRST PERSONAL NAME

ADDITIONAL NAME(S)/INITIAL(S)

SUFFIX

1c. MAILING ADDRESS

12308 RED SUN

CITY

EL PASO

STATE

TX

POSTAL CODE

79938

COUNTRY

USA

2. DEBTOR'S NAME - Provide only one Debtor name (2a or 2b) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name); if any part of the Individual Debtor's name will not fit in line 2b, leave all of item 2 blank, check here ☐ and provide the Individual Debtor information in item 10 of the Financing Statement Addendum (Form UCC1Ad)

2a. ORGANIZATION'S NAME

ADVANCE TRANSPORTATION SERVICES INCORPORATED

OR

2b. INDIVIDUAL'S SURNAME

FIRST PERSONAL NAME

ADDITIONAL NAME(S)/INITIAL(S)

SUFFIX

2c. MAILING ADDRESS

12308 RED SUN DR

CITY

EL PASO

STATE

TX

POSTAL CODE

79938

COUNTRY

USA

3. SECURED PARTY'S NAME (or NAME of ASSIGNEE of ASSIGNOR SECURED PARTY) - Provide only one Secured Party name (3a or 3b)

3a. ORGANIZATION'S NAME

E ADVANCE SERVICES

OR

3b. INDIVIDUAL'S SURNAME

FIRST PERSONAL NAME

ADDITIONAL NAME(S)/INITIAL(S)

SUFFIX

3c. MAILING ADDRESS

122 EAST 42ND STREET SUITE
2112

CITY

NEW YORK

STATE

NY

POSTAL CODE

10168

COUNTRY

USA

4. COLLATERAL: This financing statement covers the following collateral:

All now owned and hereafter acquired accounts; chattel paper; deposit accounts;

PayPal, Inc, contract rights; letter of credit rights; instruments; payment and

general intangibles; goods; inventory; equipment and fixtures; investment

property; and all books and records relating to all of the foregoing property,

including, without limitation, all computer programs; and all proceeds of the

foregoing. NOTICE PURSUANT TO AN AGREEMENT BETWEEN DEBTOR AND SECURED PARTY,

DEBTOR HAS AGREED NOT TO FURTHER ENCUMBER THE COLLATERAL DESCRIBED HEREIN, THE

ENCUMBERING OF WHICH MAY CONSTITUTE THE TORTIOUS INTERFERENCE WITH THE SECURED

PARTY'S RIGHT BY SUCH ENCUMBRANCES. IN THE EVENT THAT ANY ENTITY IS GRANTED

A SECURITY INTEREST IN DEBTORS ACCOUNTS, CHATTEL PAPER OR GENERAL INTANGIBLES

CONTRARY TO THE ABOVE, THE SECURED PARTY ASSERTS A CLAIM TO ANY PROCEEDS THEREOF

RECEIVED BY SUCH ENTITY.

5. Check only if applicable and check only one box. Collateral is ☐ held in a Trust (see UCC1Ad, item 17 and Instructions) ☐ being administered by a Decedent's Personal Representative

6a. Check only if applicable and check only one box:

☐ Public-Finance Transaction ☐ Manufactured-Home Transaction ☐ A Debtor is a Transmitting Utility

6b. Check only if applicable and check only one box.

☐ Agricultural Lien ☐ Non-UCC Filing

7. ALTERNATIVE DESIGNATION (if applicable):

☐ Lessee/Lessor

☐ Consignee/Consignor

☐ Seller/Buyer

☐ Bailee/Bailor

☐ Licensee/Licensor

8. OPTIONAL FILER REFERENCE DATA:

[UCC1-746975]

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UCC FINANCING STATEMENT ADDENDUM
FOLLOW INSTRUCTIONS

9. NAME OF FIRST DEBTOR: Same as line 1a or 1b on Financing Statement; if line 1b was left blank because Individual Debtor name did not fit, check here ☐

OR	9a. ORGANIZATION'S NAME ATS I, INC.
	9b. INDIVIDUAL'S SURNAME
	FIRST PERSONAL NAME
	ADDITIONAL NAME(S)/INITIAL(S) SUFFIX

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

10. DEBTOR'S NAME: Provide (10a or 10b) only one additional Debtor name or Debtor name that did not fit in line 1b or 2b of the Financing Statement (Form UCC1) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name) and enter the mailing address in line 10c

OR	10a. ORGANIZATION'S NAME STARLINE ELP, INC.
	10b. INDIVIDUAL'S SURNAME
	INDIVIDUAL'S FIRST PERSONAL NAME
	INDIVIDUAL'S ADDITIONAL NAME(S)/INITIAL(S) SUFFIX

10c. MAILING ADDRESS 12308 RED SUN DR	CITY EL PASO	STATE TX	POSTAL CODE 79938	COUNTRY USA
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11. ☐ ADDITIONAL SECURED PARTY'S NAME or ☐ ASSIGNOR SECURED PARTY'S NAME: Provide only one name (11a or 11b)

OR	11a. ORGANIZATION'S NAME
	11b. INDIVIDUAL'S SURNAME
	FIRST PERSONAL NAME
	ADDITIONAL NAME(S)/INITIAL(S) SUFFIX

11c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY
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12. ADDITIONAL SPACE FOR ITEM 4 (Collateral)

13. ☐ This FINANCING STATEMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS (if applicable)

14. This FINANCING STATEMENT

☐ covers timber to be cut ☐ covers as-extracted collateral ☐ is filed as a fixture filing

15. Name and address of a RECORD OWNER of real estate described in item 16 (if Debtor does not have a record interest):

16. Description of real estate:

17. MISCELLANEOUS:

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UCC FINANCING STATEMENT ADDENDUM
FOLLOW INSTRUCTIONS

9. NAME OF FIRST DEBTOR: Same as line 1a or 1b on Financing Statement; If line 1b was left blank because Individual Debtor name did not fit, check here ☐

OR	9a. ORGANIZATION'S NAME	
	ATS I, INC.	
	9b. INDIVIDUAL'S SURNAME	
	FIRST PERSONAL NAME	
	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

10. ADDITIONAL DEBTOR'S NAME: Provide only one Debtor name (10a or 10b) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name)

OR	10a. ORGANIZATION'S NAME			
	10b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX
	WARDY	ABRAHAM	JAMIEL	
10c. MAILING ADDRESS		CITY	STATE	POSTAL CODE
12308 RED SUN DR		EL PASO	TX	79938
				COUNTRY
				USA

FILING OFFICE COPY